

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Judith Le	Team: Squad #12	CCRB Case #: 201709009	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/25/2017 8:35 PM	Location of Incident: [REDACTED]	Precinct: 81	18 Mo. SOL 4/25/2019	EO SOL 4/25/2019	
Date/Time CV Reported Fri, 10/27/2017 5:52 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 10/27/2017 5:52 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Jimmy Maldonado	01477	950809	PSA 3
2. POM Diego Moreno	14463	953141	PSA 3
3. DTS Wilson Verdesoto	1006	937685	PSA 3

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Martin Gimenez	04421	933804	PSA 3

Officer(s)	Allegation	Investigator Recommendation
A.POM Jimmy Maldonado	Force: Police Officer Jimmy Maldonado used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Diego Moreno	Force: Police Officer Diego Moreno used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
C.DTS Wilson Verdesoto	Force: Detective Wilson Verdesoto used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]

## Case Summary

On October 27, 2017, § 87(2)(b) filed this complaint on behalf of her son, § 87(2)(b)

On October 25, 2017, at 8:35 p.m., § 87(2)(b) was bicycling on the sidewalk, on a stolen Citibike, near 145 Patchin Avenue in Brooklyn, when he was spotted by PO Jimmy Maldonado, PO Diego Moreno, and Det. Wilson Verdesoto of PSA 3. § 87(2)(b) fled from the officers, but after a brief vehicle and foot pursuit, was handcuffed at the corner of Halsey Street and Howard Avenue in Brooklyn. He was allegedly tackled by PO Moreno and Det. Verdesoto, who placed their knees on his back, while PO Maldonado allegedly placed his knee on § 87(2)(b)'s face (**Allegations A, B, C: Force-Physical force, § 87(2)(g)**). Shortly thereafter Sgt. Martin Gimenez of PSA3 responded to the scene, and instructed the officers to take § 87(2)(b) to the stationhouse. He was subsequently issued a DAT for biking on the sidewalk. § 87(4-b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

There is no video footage capturing this incident.

## Findings and Recommendations

**Allegation (A) Force: Police Officer Jimmy Maldonado used physical force against § 87(2)(b)**

**Allegation (B) Force: Police Officer Diego Moreno used physical force against § 87(2)(b)**

**Allegation (C) Force: Detective Wilson Verdesoto used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) knowingly used a stolen Citibike. It is also undisputed that when he was spotted by officers, he was bicycling on the sidewalk. In dispute are the events that occurred thereafter.

Medical records provided by EMS-FDNY (**Board Review #1**) state that on § 87(2)(b), § 87(2)(b) received treatment from EMS at PSA 3 Stationhouse. § 87(2)(b) told EMS he was arrested by officers, and was lying on the ground and scratched his right eyebrow. § 87(2)(b) refused subsequent medical treatment and RMA'd.

Medical records provided by § 87(2)(b) (**Board Review #1**) state that on § 87(2)(b), § 87(2)(b) was seen by the Emergency Department. § 87(2)(b) requested a medical evaluation of an abrasion to his right eye. § 87(2)(b) told medical staff that on October 25, 2017, he was riding his bicycle on the sidewalk, which is illegal, when officers began chasing him. After he was caught by the officers, he got scared and ran. The officers chased him and slammed him on the concrete with his face down. He hit the side of his right eye, knee, and left cheek. § 87(2)(b) stated he was experiencing pain and discomfort in his right eye, as well as pain on his left cheek. A medical evaluation conducted on § 87(2)(b)'s right eye found no bleeding or laceration. The right upper eyelid had mild swelling and bruising, as well as one and a half centimeters of scraped skin on the lateral corner of the right eye. There was mild tenderness on his left cheek, with no swelling, bruises, or visible signs of trauma. § 87(2)(b) was discharged home with bacitracin and ibuprofen.

§ 87(2)(b) **(Board Review #2)** said he was biking on the sidewalk when he heard a car back up. He turned and saw a black 4-door sedan make a U-turn on Ralph Avenue and head in his direction. § 87(2)(b) thought the car was a police car because it had tinted windows and that it was following him because he was riding the stolen Citibike. The car did not turn on its lights or sirens and he did not hear anyone instruct him to stop. The car began to speed, and § 87(2)(b) biked faster. When he got on Howard Ave., he got off the bike and began running back in the same direction that he came from. When § 87(2)(b) reached the corner of Hancock Street and Halsey Street, he stopped running, and immediately PO Maldonado came up and grabbed him from behind. PO Maldonado turned § 87(2)(b) around and placed him in handcuffs. PO Maldonado then held § 87(2)(b) for about thirty seconds, until PO Moreno and Det. Verdesoto arrived. PO Moreno and Det. Verdesoto ran towards § 87(2)(b) and pushed him down. He fell forward and hit the right side of his face on the corner the stairwell of the apartment building. The officers put their knees in his back. PO Maldonado also placed his knee on § 87(2)(b)'s face, pressing it against his jaw on his left side. PO Moreno then instructed the officers to go around the corner and canvass for weapons. While the officers were canvassing for weapons, PO Moreno asked § 87(2)(b) why he had run. § 87(2)(b) replied, "Because you guys were chasing me." PO Moreno then placed § 87(2)(b) in the back of the police car. Later at the stationhouse, § 87(2)(b) was attended by EMTs who cleaned his eye. He was given a DAT, for biking on the sidewalk. Several days later, § 87(2)(b) went to the hospital to check for fractures because his left jaw was stolen and puffy, and there was a scratch under his brow bone.

§ 87(2)(b) **(Board Review #3)** stated in a detailed phone statement that she did not witness the incident, but was later told by § 87(2)(b) that he had borrowed his friend's Citibike and was biking on the sidewalk. There were plainclothes officers following him, and § 87(2)(b) was afraid the officers would accuse him of stealing the bike, so he began biking faster. § 87(2)(b) got tired at the corner of Halsey Street and Howard Ave., so he stopped, and was approached by PO Maldonado, who handcuffed him. After § 87(2)(b) was handcuffed, the remaining officers arrived and slammed his face to the ground. An officer placed his knee in his back, and another placed a knee on his neck. When § 87(2)(b) was released, his eye was swollen and scratched.

DAT § 87(2)(b) **(Board Review #4)** was issued to § 87(2)(b) on 10/25/1 at 11:35 p.m. for offense LOC000.00 OV, violation of an unidentified administrative code.

PO Maldonado **(Board Review #5)** said that he, Det. Verdesotto, and PO Moreno were conducting patrol when they observed § 87(2)(b) on a Citibike, biking from the sidewalk into the intersection. § 87(2)(b) crossed in front of the officers and continued to bike on the sidewalk, while continuing to look back at the officers. The officers decided to follow § 87(2)(b). They made a U-Turn and after a short vehicle pursuit were about to approach § 87(2)(b) when he threw down the bike and began running. PO Maldonado and PO Moreno exited the vehicle and engaged in a short foot pursuit. Det. Verdesoto stayed in the car. PO Maldonado yelled, "Police!" § 87(2)(b) ran into a short driveway, slipped and fell on the ground on his side. PO Moreno was right behind PO Maldonado and they each grabbed § 87(2)(b) and instructed him to relax. They put him in handcuffs for safety reasons. PO Maldonado said that it was never necessary to use force on § 87(2)(b). He noted that § 87(2)(b) was not tackled to the ground, and he did not see any officers place their knees in his back or neck. § 87(2)(b) apologized to the officers, and explained that he had been afraid of stopping because he was on a stolen bicycle, which he had

gotten from a friend. After about five or ten minutes, Det. Verdesoto arrived. Sgt. Gimenez then arrived with his driver. Neither of them tackled § 87(2)(b) to the ground and no other officers arrived.

PO Moreno (**Board Review #6**) provided a statement generally consistent with PO Moreno. Someone, but he could not remember who, observed § 87(2)(b) bicycling on the sidewalk on a Citibike. While engaging in the foot pursuit, PO Moreno was about twenty feet behind PO Maldonado. When he caught up to PO Maldonado, he saw § 87(2)(b) on the ground. He did not know how § 87(2)(b) got there. PO Moreno handcuffed § 87(2)(b) while PO Maldonado held § 87(2)(b) on the ground because he had already run from the officers, and they did not want him to flee again. At some point, Det. Verdesoto arrived. PO Moreno said there was never a need for the officers to bring § 87(2)(b) back to the ground, or place their knees on him. PO Moreno did not see any force used on § 87(2)(b) after he was handcuffed.

Det. Verdesoto (**Board Review #7**) said he was driving when PO Moreno or PO Maldonado told him to turn around because there was a “kid on a bike.” Det. Verdesoto made a U-Turn and saw § 87(2)(b) biking down the street. After letting out PO Maldonado and PO Moreno, Det. Verdesoto put the vehicle in reverse, got back on Howard Avenue, and made a left on Halsey Street. During this time, PO Moreno and PO Maldonado were not in his line of vision. A few seconds later, Det. Verdesoto arrived on Halsey Street and saw PO Moreno and PO Maldonado with § 87(2)(b) who was handcuffed. The officers were helping § 87(2)(b) off the sidewalk and Det. Verdesoto pulled over. Det. Verdesoto did not see force used against § 87(2)(b). Det. Verdesoto asserted that he had “zero interaction” with § 87(2)(b) and never touched or used force on him. He did not see any injuries on § 87(2)(b).

Sgt. Gimenez (**Board Review #8**) said he was asked over the radio to verify an arrest for PO Maldonado and PO Moreno. When he arrived, § 87(2)(b) was already in handcuffs. Sgt. Gimenez did not see any injuries on § 87(2)(b). Sgt. Gimenez spoke to PO Maldonado who informed him that officers tried to stop § 87(2)(b) who was riding a Citibike on the sidewalk, but § 87(2)(b) refused to comply and ran. They did not discuss if force was used.

P.G. 221-02 states that officers may apply no more than reasonable force necessary to gain control (**Board Review #9**).

§ 87(2)(b) § 87(2)(g), § 87(2)(b)  
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§ 87(4-b), § 87(2)(g)

### Civilian and Officer CCRB Histories

- PO Maldonado has been a member-of-service for six years and this is the first CCRB complaint which he has been a subject.
- PO Moreno has been a member-of-service for five years and has been a subject in one CCRB complaint and one allegation, none of which were substantiated. § 87(2)(g)
- Det. Verdesoto has been a member-of-service for thirteen years and has been a subject in eleven CCRB complaints and 26 allegations, of which five were substantiated:
  - Case 201606686 involved substantiated allegations of force (physical force), abuse of authority (refusal to provide name/shield), abuse of authority (retaliatory arrest), abuse of authority – frisk, and abuse of authority (stop) against Det. Verdesoto. The Board recommended Command Discipline B and the NYPD has not yet imposed discipline.
  - § 87(2)(g)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review #12**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review #13**).

### Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City. The arrest, relating to this incident, was undocketed (**Board Review #14**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**Board Review #15**).
- As of February 15, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (**Board Review #16**).

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Squad No.: 12

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date